IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7019 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BELADIA NAVGHANBHAI DANABHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 7019 of 2002

MRS DT SHAH for Petitioner No. 1

MR IM PANDYA, AGP for Respondent No. 1-2

NOTICE SERVED for Respondent No. 3-4

MS SEJAL K MANDAVIA for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/09/2003

ORAL JUDGEMENT

Draft amendment granted. Amendment to be carried

out accordingly.

2) RULE. Mr.I.M.Pandya, learned AGP waives service of rule on behalf of respondents No.1 and 2 and Ms.Sejal Mandavia waives service of rule on behalf of respondents No.3 to 5. With consent of the parties, matter is taken up for hearing today.

3) The grievance of the petitioner is that the department has not considered the case of the petitioner for giving compassionate appointment. The father of the petitioner was serving as "Driver" in Panchayat Department and he has served for more than 25 years. The father of the petitioner had died on 7-4-2000 while he was in service. Thereafter, the petitioner requested the department for giving compassionate appointment. The claim of the petitioner was rejected on the ground that the father of the petitioner was a daily rated employee and in that view of the matter, the Executive Engineer of the Panchayat by his letter dated 4th July, 2000 informed the petitioner that in view of the Government letter dated 27-10-1995, benefit of compassionate appointment can not be given to the dependents of the Rojmadar.

4) It seems that in the meanwhile, the services of the father of the petitioner were regularised in view of the decision given by the Labour Court in an industrial adjudication. The learned advocate Mrs.Shah has also pointed out that the services of the petitioners' father were already regularised by order dated 30th May 2002, which is at page 43 in the compilation. The said order is passed by the District Panchayat. The petitioner had again applied on 20th May 2002 for compassionate appointment, in view of the decision of the Labour Court, which was confirmed by the High Court. The District Development Officer, thereafter, informed the petitioner on 27-9-2002 that the petitioner should give appropriate application in prescribed form and copy of the form was also supplied by the department. On that basis, the petitioner has again applied for compassionate appointment. The D.D.O., Surendranagar by letter of January 2003, addressed to the Deputy Secretary, Panchayat Department, forwarded the application of the petitioner to the Government. In the letter, he has also pointed out that the father of the petitioner was given benefit of permanency with retrospective effect and therefore, the letter of the Government dated 7-9-2002 is not applicable in the present case. With these remarks, application of the petitioner was forwarded to the Government. It seems that the aforesaid application of the petitioner is still pending and no decision is taken

by the State in any manner.

5) It is clear that the services of the father of the petitioner were regularised with effect from 1-10-1988. Under these circumstances, the remarks of the D.D.O. in his letter addressed to the Deputy Secretary is absolutely justified and the restriction to the effect that the Rojmadar's dependents cannot get benefit of compassionate appointment is not applicable in the present case. Now, it is not in dispute that the fresh proposal sent by D.D.O. by his letter of January 2003 to the Deputy Secretary of Panchayat, is not decided and the same is still pending. It is not in dispute that in view of the changed circumstances, the petitioner has already applied for compassionate appointment. Under these circumstances, the Secretary, Panchayat, Urban Housing Department is directed to process the proposal submitted by D.D.O., Surendranagar, by his letter of January 2003, in connection with compassionate appointment application of the petitioner and appropriate decision on such application may be taken expeditiously, and in any case within a period of three months without any delay. While taking the decision, fact that the services of the father of the petitioner were already regularised, may also be taken into account, as the said fact is not in dispute. Since the matter pertains to compassionate appointment, decision may be taken within the stipulated time by the State without any further delay.

6) This petition is accordingly allowed. Rule is made absolute to the aforesaid extent with no order as to costs. Direct service is permitted.

(P.B.Majmudar,J.)
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